

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

_____	)	
AMIT PATEL,	)	
Plaintiff	)	
	)	
VS.	)	CIVIL ACTION NO. 1:14-CV-13070
	)	
CON-WAY FREIGHT, INC. and	)	
RONALD K. BORDEN,	)	
Defendants	)	
_____	)	

**ANSWER AND JURY DEMAND OF DEFENDANT CON-WAY FREIGHT, INC.  
TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant Con-Way Freight, Inc. ("Con-Way") hereby responds to Plaintiff's Amended Complaint as follows.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Defendant responds to Plaintiff's allegations, paragraph by paragraph, as follows:

**THE PARTIES**

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and calls upon Plaintiff to prove same.
2. Admits.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and calls upon Plaintiff to prove same.

**THE FACTS**

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and calls upon Plaintiff to prove same.

5. Admits.

6. Denies.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph, and calls upon Plaintiff to prove same. Defendant admits that it employed Ronald Borden at the time of the alleged incident.

8. Denies.

**COUNT I – NEGLIGENCE**  
**Ronald K. Borden**

Paragraphs 9 through 12 are directed to another Defendant and, therefore, no response is required.

WHEREFORE, Defendant Conway Freight, Inc. demands that Plaintiff's Amended Complaint be dismissed with prejudice and costs.

**COUNT II – VICARIOUS LIABILITY**  
**Con-Way Freight, Inc.**

13. The Defendant, Con-Way Freight, Inc. repeats and re-alleges its responses to paragraphs 1 through 12 above as if set forth in full herein.

14. Denies.

15. Denies.

16. Denies.

WHEREFORE, Defendant Conway Freight, Inc. demands that Plaintiff's Amended Complaint be dismissed with prejudice and costs.

**COUNT III – LIABILITY UNDER M.G.L. CH. 231 §85A**  
**Con-Way Freight, Inc.**

17. The Defendant, Con-Way Freight, Inc. repeats and re-alleges its responses to paragraphs 1 through 16 above as if set forth in full herein.

18. Admits.

19. Defendant states that this paragraph calls for a legal conclusion and, thus, no response is required. To the extent a response is required, Defendant denies the allegations set forth in this paragraph.

WHEREFORE, Defendant Con-way Freight, Inc. demands that Plaintiff's Amended Complaint be dismissed with prejudice and costs.

**THIRD AFFIRMATIVE DEFENSE**

The damages suffered by Plaintiff, if any, were the result of the conduct of a third party, for which Defendant is not liable.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff is estopped to assert his/her claim due to his/her acts or conduct.

**FIFTH AFFIRMATIVE DEFENSE**

If Plaintiff has been damaged as alleged, which Defendant denies, then said damage resulted from Plaintiff's own negligence and/or intentional conduct. Accordingly, Plaintiff is either barred from recovery or must his/her reduce recovery (if any) proportionate to the extent of Plaintiff's negligence.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint should be dismissed pursuant to MRCP 12(b)(5) for insufficient service of process.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint should be dismissed pursuant to MRCP 12(b)(4) for insufficiency of process.

**EIGHTH AFFIRMATIVE DEFENSE**

The damages suffered by Plaintiff, if any, were the result of his/her own conduct.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint should be dismissed for failure to commence this action within the applicable statute of limitations.

**JURY DEMAND**

Defendant, Con-Way Freight, Inc., hereby demands a trial by jury as to all issues to which it is entitled as a matter of right.

Respectfully submitted,  
Defendant,  
Con-Way Freight, Inc.  
By its Attorneys

/s/ Sean F. McDonough  
/s/ Alan E. Brown

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Sean F. McDonough, BBO#564723  
Alan E. Brown, BBO #665203  
MORRISON MAHONEY LLP  
250 Summer Street  
Boston, MA 02210  
(617) 439-7500

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on July 28, 2014.

/s/ Alan E. Brown

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Alan E. Brown